

## Development or Forestry?

Just cutting trees is not forestry, though the initial result of doing so for either development or forestry is the same. Forestry is often defined in local ordinances, and is defined in both N.C.G.S. § 153A-451 and 160A-485.5 as “the professional practice embracing the science, business, and art of creating, conserving, and managing forests and forestland for sustained use and enjoyment of their resources, materials, and other forest products.” Development is defined within these same statutory sections to include any activity, including forestry, associated with converting forestland to nonforest use. Local governments have several concerns around the question of whether an activity is forestry. Even if an activity is considered forestry, governments must decide *how* to address environmental and aesthetic concerns. Land that has been surveyed for roads, houses, and utilities is probably not being used for forestry – and more than likely is not being managed under a legally prescribed forest management plan. Forestry is typically undertaken on land that is under the present-use-value tax-deferral program and has a forest management plan, although not all forestland is enrolled in the present-use-value program. Some landowners choose not to enroll in this tax-deferral program but still manage their land for forestry purposes. Areas cleared for silvicultural purposes, according to a sound forest management plan, will be reforested later; and forestry may continue for many years depending on several factors, including whether a landowner has the ability to harvest trees on their land in the future.

Local governments address aesthetic and environmental concerns about *forestry* activities through some of the following measures:

- ♦ Require a permit prior to commencement of forestry activity, which may require that a forest management plan be filed with the application. Some jurisdictions may require filing a notice of activity with the county register of deeds as well for properties subject to such activity.
- ♦ Establish buffer standards that specify some amount of vegetative buffer around an area to be harvested, particularly along streams or roadways in highway overlay districts. Local governments may also require plans indicating where required buffers or tree save areas are to be preserved – or can voluntarily be preserved – to allow property to be developed sooner if all protected trees are not cleared.

- ♦ Require that forestry activities follow forestry best management practices related to water quality when forestry is undertaken in water-supply watershed protection areas and to protect water quality.

Local governments address aesthetic and environmental concerns about *development* activities through some of the following measures:

- ♦ Require tree surveys or environmental surveys that provide general descriptions of stands or trees of special significance, such as any tree designated as a “Champion Tree” by the N.C. Division of Forest Resources. *Note that some local bills prohibit the surveying of individual trees.*
- ♦ Establish tree conservation areas to protect trees during construction and to serve as buffers around development.
- ♦ Require landscaping and tree preservation plans that denote tree conservation areas, critical root zones of trees to be protected, as well as measures that will be taken to protect trees before, during, and after development. These include measures, such as fencing and signage, to protect trees during construction.
- ♦ Sediment and erosion control regulations may also apply depending on the acreage and site conditions.

Both forestry and developmental uses, including residential and nonresidential, commercial, retail, and industrial uses, can disturb trees and other vegetation. Communities must tailor their ordinances to address the effects common to all of these land uses. They also must consider the differences in these uses, particularly in regard to the quantity, quality, and type of vegetation to be regenerated or replanted and how it will be maintained.

## Defining and Exempting Bona Fide Farm Purposes

Some land uses are uniquely regulated under the state’s planning and zoning authority. Counties in North Carolina are required to exempt bona fide farm purposes as defined in N.C.G.S. § 153A-340(b)(2), which includes timber production, from their zoning ordinances – and accordingly from any landscaping or tree retention and protection measures that are part of these ordinances. Definitions of forestry and silviculture may vary within local ordinances. But the definition of *bona fide farm purpose* for the state’s purpose of exempting such activities from zoning is very clear